

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	IB Docket No. 04-47
Amendment of Parts 1 and 63 of the)	
Commission's Rules)	

REPLY COMMENTS OF VERIZON WIRELESS

Verizon Wireless submits these reply comments in response to the *Notice of Proposed Rule Making* in the above-captioned proceeding.¹ The NPRM proposes changes to the Commission's Section 214 international authorization process and its rules governing Commercial Mobile Radio Service ("CMRS") providers' provision of outbound and inbound international telecommunications services. While the proposed changes are appreciated and a step in the right direction, Verizon Wireless believes that the Commission should go further and exempt CMRS carriers providing outbound international service or inbound "roaming" international service from all Section 214 authorization requirements and related Part 63 regulations. The record provides no factual basis for maintaining these outdated requirements.

DISCUSSION

I. CMRS Carriers Should Be Exempt From the Requirements of Section 214 and Related Part 63 of the Commission's Rules

The FCC has continued to require that CMRS providers apply for Section 214 authority to provide international service, even after it determined that domestic Section

¹ *Amendment of Parts 1 and 63 of the Commission's Rules*, IB Docket No. 03-128, *Notice of Proposed Rule Making*, FCC 04-40 (rel. March 4, 2004) ("NPRM").

214 authorizations were unnecessary given the fact that CMRS carriers (unlike wire line carriers) are required to receive wireless authorizations from the Commission prior to commencement of service.² The Commission has previously rejected proposals to eliminate the requirement the CMRS carriers obtain Section 214 international authorizations citing concerns over (1) a foreign affiliate's market power at the foreign end of a U.S. route could discriminate against U.S. competitors on an affiliated route and (2) national security or law enforcement.³ However, the FCC has also stated that it has never received any complaints alleging "CMRS carriers have engaged in traffic distortion schemes" and that "it is not obvious that these switched resellers of unaffiliated services have the ability or the incentive to engage in such anti-competitive conduct on these routes where they are affiliated with foreign carriers possessing market power."⁴ Nor does the record of this proceeding supply any factual support for these prior concerns. In addition, as Cingular has noted, the Commission's reluctance to eliminate Section 214's application to CMRS due to concerns over law enforcement and national security is illogical, given the fact that foreign companies are permitted to provide facilities-based domestic interstate, interexchange service in the United States without obtaining a Section 214 authorization.⁵

² See, e.g., *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order*, 9 FCC Rcd 1411, 1480-81 (1994).

³ See *Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Personal Communications Services, Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 13 FCC Rcd 16857, 16882 (1992); *1998 Biennial Regulatory Review, Review of International Common Carrier Regulations, Report and Order*, 14 FCC Rcd 4909, 4911 (1999); NPRM at ¶¶ 16, 17.

⁴ See *2000 Biennial Regulatory Review, Report and Order*, 17 FCC Rcd 11416, 11429 (2002) ("2000 Biennial Review Order").

⁵ See Cingular Wireless, LLC ("Cingular") Comments, IB Docket No. 02-309 at 10 (filed Oct. 18, 2002).

Accordingly the FCC should exempt CMRS providers from the requirements of Section 214 and related Part 63 requirements. The reduction in regulatory oversight would further reduce regulatory burdens placed on CMRS providers.

II. At a Bare Minimum the FCC Should Adopt the Section 214 Streamlining Proposals

A. Post Notification Process

Verizon Wireless supports the FCC's streamlining proposal that would grant CMRS carriers a "narrow exception from the Commission's rules authorizing the provision of international services."⁶ Under the proposed exception, a prior application would not be required when CMRS carriers are offering resold international service where the carrier is (1) unaffiliated with a foreign carrier with market power operating at the foreign end of a route, or (2) has an affiliation with such a foreign carrier, but seeks to provide international service by reselling directly or indirectly the international switched services of U.S. carriers with which it is not affiliated.⁷ In lieu of a prior application, a carrier satisfying one of the above criteria could "notify the Commission within 30 days of when it begins to provide international service."⁸

As stated above, Verizon Wireless does not believe that any Section 214 approval is necessary for CMRS carriers, but agrees with Cellular Telecommunications & Internet Association ("CTIA") that the proposed post-notification process would represent an interim step towards streamlining the regulatory treatment of CMRS carriers offering international service. At a minimum, this step should be adopted.⁹

⁶ NPRM at ¶ 19.

⁷ *Id.*

⁸ *Id.* at ¶ 20.

⁹ CTIA Comments at 7.

B. Commonly-Controlled Subsidiaries Operating Under Parent's Section 214 Authorizations

Section 63.21(h) of the Commission's rules permits a wholly owned subsidiary, but not a commonly controlled subsidiary, to provide international service pursuant to its parent company's Section 214 authorization. In the NPRM, the Commission asked whether it would be appropriate to amend Section 63.21(h) to allow commonly controlled subsidiaries to provide international service pursuant to their parent's international authorization.¹⁰ As Cingular correctly notes, many CMRS providers operate through numerous subsidiaries that have minority, non-controlling interest holders.¹¹ In addition, as CTIA notes, information on foreign affiliations is already available via a carrier's Form 602 filing or a Section 310(b)(4) petition for declaratory ruling. The Commission has previously stated, "Section 214 was enacted to ensure the provision of nation-wide service and to stem inflated rate bases resulting from imprudent or wasteful duplication of facilities."¹² Further, the Commission has never adequately explained why it believes that information provided by non-wholly owned subsidiaries provides any additional information not already provided by the parent company.¹³

In its comments, the Department of Defense ("DOD") "requests that this rule be retained in its current form so it may continue to receive notification of proposed shifts in foreign ownership interests prior to any action by the Commission".¹⁴ Verizon Wireless understands the DOD's need to review changes in foreign ownership of CMRS providers. However, the International 214 authorization process was never intended to given notice

¹⁰ NPRM at ¶ 32.

¹¹ Cingular Comments at 6.

¹² *See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefore, Second Report and Order*, 91 F.C.C.R. 2d 59 at ¶ 25 (1982).

¹³ *See 2000 Biennial Review Order*, 17 F.C.C.R. at 11433 "new information for the purpose of national security, law enforcement, trade, foreign policy evaluation."

¹⁴ *See* Department of Defense Comments at 4.

of “shifts in foreign ownership.” This review is more appropriately completed as part of a Section 310(b)(4) petition for declaratory ruling. Similarly, the joint comments of the Executive Branch Agencies offer no explanation as to why review of a carrier’s Form 602 filing or a Section 310(b)(4) petition would not be a fully adequate place to review changes in foreign ownership.¹⁵ Allowing carriers and their commonly controlled subsidiaries to operate under the same International 214 authorization would reduce the regulatory burden of duplicative filings for carriers as well as Commission staff. Verizon Wireless urges the Commission to allow commonly controlled subsidiaries to operate under a parent’s international authorization without any post notification.

III. International Roaming Agreements Do Not Require FCC Approval

In the NPRM, the FCC states that Sections 63.18(e)(2) and 63.23 should be clarified “to permit explicitly all U.S.-authorized resale carriers to resell U.S.-inbound international services of both U.S. or foreign carriers.”¹⁶ Verizon Wireless agrees with CTIA that no clarification is necessary since international roaming does not consist of the resale of service from foreign carriers.¹⁷ International roaming (and domestic roaming) is facilitated through roaming agreements among facilities-based carriers whereby carriers agree to allow the other carrier’s customers to use its network. In contrast, resale involves a reseller purchasing service from a facilities-based carrier that the reseller itself will offer to its customers in the same market. Because Section 63.23 regulates resellers offering the international services of U.S. facilities-based carriers, it would be inappropriate to subject international roaming agreements to this section. Further, the

¹⁵ See generally Comments of the Department of Justice, including the Federal Bureau of Investigation and the Department of Homeland Security (“Executive Branch Agencies”).

¹⁶ NPRM at ¶ 26.

¹⁷ CTIAComments at 9.


Commission lacks jurisdiction over the services that foreign carriers offer on their own soil.¹⁸ Accordingly, Verizon Wireless does not believe that the FCC needs to amend Sections 63.18(e)(2) or 63.23.

CONCLUSION

As discussed above, Verizon Wireless urges the Commission to exempt CMRS carriers providing outbound international service or inbound “roaming” international service from Section 214 authorization requirements and associated Part 63 regulations. In the alternative, Verizon Wireless supports the streamlining proposals discussed in these comments.

Respectfully submitted,

By:

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line underneath the name.

John T. Scott, III
Vice President and Deputy
General Counsel - Regulatory Law

Michael Samsock
Senior Attorney
Verizon Wireless
1300 I Street, N.W., Suite 400W
Washington, DC 20005
(202) 589-3768

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¹⁸ Cingular Comments at 8.

Certificate of Service

I hereby certify that on this 7th day of June copies of the foregoing “Reply Comments of Verizon Wireless” in IB Docket No. 04-47 were sent by hand delivery to the following parties:

Best Copy and Printing, Inc.
445 12th Street, SW – Room CY-B402
Washington, DC 20554

James Ball
Chief, Policy Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

David Krech
Senior Legal Advisor, Policy Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Belinda E. Nixon
Attorney, Policy Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Cara T. Grayer
Attorney, Policy Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

/s/
Linda Clowe